

EMPLOYER HEALTH BENEFITS
2014 ANNUAL SURVEY

Grandfathered
Health Plans

SECTION

13

GRANDFATHERED HEALTH PLANS

THE AFFORDABLE CARE ACT (ACA) IS BRINGING ABOUT A NUMBER OF CHANGES FOR THE AMERICAN HEALTH CARE SYSTEM, INCLUDING FOR EMPLOYER-SPONSORED HEALTH INSURANCE. IN 2014 MANY NEW PROVISIONS TOOK EFFECT FOR GROUP COVERAGE INCLUDING LIMITS ON WAITING PERIODS, OUT-OF-POCKET MAXIMUMS, AND MANY REFORMS FOR THE SMALL EMPLOYER MARKET. OTHER KEY PROVISIONS OF THE ACA, SUCH AS THE NON-DISCRIMINATION REQUIREMENTS AND THE EMPLOYER SHARED RESPONSIBILITY PROVISION, WERE DELAYED UNTIL 2015. IN SOME CASES SMALL EMPLOYERS WERE GIVEN NEW COVERAGE OPTIONS THROUGH SHOP EXCHANGES, ALTHOUGH THE IMPLEMENTATION WAS LIMITED. SHOP MARKETPLACES WERE AVAILABLE FOR SHOPPING FOR COVERAGE, BUT FIRMS COULD NOT COMPLETE THE TRANSACTION ONLINE AND HAD TO BUY DIRECTLY FROM THE ISSUER OR THROUGH A BROKER. (FOR MORE INFORMATION, SEE SECTIONS 2, 7, AND 11, AND THE HEALTH REFORM IMPLEMENTATION TIMELINE AT WWW.KFF.ORG/INTERACTIVE/IMPLEMENTATION-TIMELINE/.) THE ACA EXEMPTS CERTAIN HEALTH PLANS THAT WERE IN EFFECT WHEN THE LAW WAS PASSED, REFERRED TO AS GRANDFATHERED PLANS, FROM SOME OF THE NEW STANDARDS IN THE LAW; THESE INCLUDE REQUIREMENTS TO COVER PREVENTIVE BENEFITS WITHOUT COST SHARING, HAVE AN EXTERNAL APPEALS PROCESS, OR COMPLY WITH THE NEW BENEFIT AND RATING PROVISIONS IN THE SMALL GROUP MARKET.

GRANDFATHERING

For the employer-sponsored market, health plans that were in place when the ACA was enacted (March 2010) can be grandfathered health plans. Interim final rules released by the Department of Health and Human Services on June 17, 2010, and amended on November 17, 2010, stipulate that firms cannot significantly change cost sharing, benefits, employer contributions, or access to coverage in grandfathered plans.¹ New employees can enroll in a grandfathered plan as long as the firm has maintained consecutive enrollment in the plan.

Grandfathered plans are exempted from many of the ACA's new requirements, but still must comply with other provisions as they become effective, including: (1) provide a uniform explanation of coverage, (2) report medical loss ratios and provide premium rebates if medical loss ratios are not met, (3) prohibit lifetime and annual limits on essential health benefits, (4) extend dependent coverage to age 26, (5) prohibit health plan rescissions, (6) prohibit waiting periods greater than 90 days, and (7) prohibit coverage exclusions for pre-existing health conditions.² Firms must decide whether to grandfather their insurance

plans, which limits the changes they can make to their plans, or whether to comply with the full set of new health reform requirements.

- ▶ There is a decline in the percentage of offering firms that have at least one health plan that is a grandfathered plan. Thirty-seven percent of offering firms have at least one grandfathered plan in 2014, down from 54% in 2013, 58% in 2012, and 72% in 2011.
- ▶ Worker enrollment in grandfathered plans also has decreased, with 26% of covered workers enrolled in a grandfathered health plan in 2014, down from 36% in 2013, 48% in 2012 and 56% in 2011 (Exhibit 13.3).
- ▶ A similar decrease is seen by firm size. In 2014, 35% of covered workers in small firms (3-199 workers) enrolled in a grandfathered health plan, down from 49% in 2013, 54% in 2012, and 63% in 2011. For larger firms, 22% of covered workers enrolled in a grandfathered health plan, down from 30% in 2013, 46% in 2012, and 53% in 2011 (Exhibit 13.3).

NOTES:

¹ *Federal Register*. Vol. 75, No. 116, June 17, 2010, www.gpo.gov/fdsys/pkg/FR-2010-06-17/pdf/2010-14614.pdf, and No. 221, Nov. 17, 2010, <http://edocket.access.gpo.gov/2010/pdf/2010-28861.pdf>.

² United States. Congressional Research Service CRS. Open CRS. By Bernadette Fernandez. Grandfathered Health Plans Under the Patient Protection and Affordable Care Act (PPACA), Jan. 3, 2011. http://assets.opencrs.com/rpts/R41166_20110103.pdf.

EXHIBIT 13.1

Percentage of Firms with At Least One Plan Grandfathered Under the Affordable Care Act (ACA), by Size, Region and Industry, 2014

	Percentage of Firms with at Least One Grandfathered Plan
FIRM SIZE	
3–24 Workers	37%
25–49 Workers	41
50–199 Workers	36
200–999 Workers	36
1,000–4,999 Workers	27
5,000 or More Workers	25*
All Small Firms (3–199 Workers)	37%
All Large Firms (200 or More Workers)	34%
REGION	
Northeast	29%
Midwest	49
South	32
West	39
INDUSTRY	
Agriculture/Mining/Construction	45%
Manufacturing	43
Transportation/Communications/Utilities	28
Wholesale	35
Retail	25
Finance	56
Service	32
State/Local Government	76*
Health Care	40
ALL FIRMS	37%

SOURCE:

Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2014.

* Estimate is statistically different from estimate for all other firms not in the indicated size, region, or industry ($p < .05$).

NOTE: For definitions of grandfathered health plans, see the introduction to Section 13.

EXHIBIT 13.2

Percentage of Covered Workers Enrolled in Plans Grandfathered Under the Affordable Care Act (ACA), by Size, Region, and Industry, 2014

	Percentage of Covered Workers in a Grandfathered Health Plan
FIRM SIZE	
3–24 Workers	36%
25–49 Workers	40
50–199 Workers	31
200–999 Workers	33
1,000–4,999 Workers	21
5,000 or More Workers	18
All Small Firms (3–199 Workers)	35%
All Large Firms (200 or More Workers)	22%
REGION	
Northeast	22%
Midwest	25
South	25
West	31
INDUSTRY	
Agriculture/Mining/Construction	29%
Manufacturing	21
Transportation/Communications/Utilities	30
Wholesale	30
Retail	17
Finance	20
Service	27
State/Local Government	37*
Health Care	23
ALL FIRMS	26%

SOURCE:

Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2014.

* Estimate is statistically different from estimate for all other firms not in the indicated size, region, or industry ($p < .05$).

NOTE: For definitions of grandfathered health plans, see the introduction to Section 13.

EXHIBIT 13.3

Percentage of Covered Workers Enrolled in Plans Grandfathered Under the Affordable Care Act (ACA), by Firm Size, 2011 to 2014

	2011	2012	2013	2014
FIRM SIZE				
3–24 Workers	69%	57%	53%	36%*
25–49 Workers	52	45	52	40
50–199 Workers	63	55	44	31*
200–999 Workers	61	60	42*	33
1,000–4,999 Workers	54	41*	34	21*
5,000 or More Workers	49	42	23*	18
All Small Firms (3–199 Workers)	63%	54%*	49%	35%*
All Large Firms (200 or More Workers)	53%	46%	30%*	22%*
ALL FIRMS	56%	48%*	36%*	26%*

SOURCE:

Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2011–2014.

* Estimate is statistically different from estimate from the previous year shown ($p < .05$).

NOTE: For definitions of grandfathered health plans, see the introduction to Section 13.

